

Defendants Regina Caeli, Inc. a/k/a Regina Caeli Academy's ("RCA") and Father Augustine Tran ("Fr. Tran") (jointly, "Defendants") jointly file this Motion to Strike the procedurally improper pleading Plaintiffs Richard Irving Beckman and Kari Ann Beckman's filed denominated "Second Amended Complaint" pursuant to Fed. R. Civ. P. 12(f)(2) and restate their prior filed respective Motions To Dismiss.

1. The Beckmans' increasingly erratic and misguided litigation tactics continue clogging the Court's docket and confusing the issues. Their refusal to become conversant with the basic strictures of Fed. R. Civ. P. 15 have now forced Defendants to file this Motion to Strike a purported "Second Amended Complaint" Plaintiffs improperly filed in Response to the Archdiocese's Motion to Dismiss and without leave of Court.

2. The Beckmans initially filed this suit against RCA and Fr. Tran on January 25, 2023 [Doc. 1]. Fr. Tran and RCA moved to dismiss Plaintiffs’ original Complaint on April 21 and 24, 2023, respectively. [Doc. 13]; [Doc. 15].

3. Fed. R. Civ. P. 15 allows a party to amend its pleading once as a matter of right in response to a dispositive motion. *See* Fed. R. Civ. P. 15(a)(1)(B). “In all other cases, a party may amend its pleading only with the opposing party’s written consent or the court’s leave.” Fed. R. Civ. P. 15(a)(2) (emphasis added).

4. The Beckmans used their one “free” amendment as a matter of right by filing the First Amended Complaint in response to RCA and Fr. Tran’s original Motions to Dismiss on May 12, 2023. [Doc. 21]. This First Amended Complaint mooted the original Motions to Dismiss. *Probado Techs. Corp. v. Smartnet, Inc.*, No. CIV A C-09-349, 2010 WL 918573, at *1 (S.D. Tex. Mar. 12, 2010). The First Amended Complaint also added the Roman Catholic Archdiocese of Atlanta, Inc. (“Archdiocese”) as a party-Defendant to this action.

5. RCA and Fr. Tran then moved to dismiss the First Amended Complaint on May 30, 2023. [Doc. 26]; [Doc. 27] (“Amended Motions”).

6. The Beckmans knew better than to attempt another amendment without leave of Court in response to RCA and Fr. Tran’s Amended Motions, as evidenced by their filing Responses in opposition to those Amended Motions on June 16, 2023. [Doc. 28]; [Doc. 29].

7. RCA & Fr. Tran filed Replies in Support of their Amended Motions on June 20, 2023. [Doc. 30]; [Doc. 31] (“Replies”). The Amended Motions are now fully briefed and ripe for adjudication.

8. The Archdiocese also filed its Motions to Dismiss the First Amended Complaint on the same day RCA and Fr. Tran filed their Replies – June 20, 2023. [Doc. 32]; [Doc. 33]. Despite

adding the Archdiocese to the lawsuit over one month earlier, the Beckmans had not bothered to serve the Archdiocese as of that time – likely because the Archdiocese’s well taken Motions to Dismiss further highlight the utter paucity of the Beckmans’ jurisdictional and merits allegations.

9. The Beckmans responded to the Archdiocese’s Motions to Dismiss on July 11, 2023. [Doc. 35]; [Doc. 36].

10. Inexplicably, however, the Beckmans filed a purported “Second Amended Complaint” *without leave of court and without first conferring with Defendants* alongside their responses to the Archdiocese’s Motions the same day. [Doc. 37]. This “Second Amended Complaint” purports to modify allegations against Fr. Tran and the Archdiocese. *See generally id.* However, the purported “Second Amended Complaint” is procedurally improper and due to be stricken.

11. The Beckmans used their one amendment as a matter of right in response to RCA and Fr. Tran’s original Motions to Dismiss. A subsequent Motion to Dismiss by a later-added defendant does not revive this right. All subsequent amendments must be consented to by Defendants in writing or authorized by leave of court. There was neither leave nor consent provided (or even requested) for the Second Amended Complaint.

12. “Plaintiff[s] did not obtain (1) [Defendant’s] written consent or (2) leave of court with respect to the amended pleading as required by the Federal Rules of Civil Procedure. Accordingly, the Court [should] strike Plaintiff[s]’ amended pleading on the basis that it was procedurally improper.” *Williams v. RaceTrac Petroleum*, No. CV 18-1012-JWD-RLB, 2019 WL 13146771, at *2 (M.D. La. Sept. 17, 2019); *White v. Romspen Mortg. Ltd. P’ship*, No. A-21-CV-00517-RP, 2022 WL 110242, at *2 (W.D. Tex. Jan. 12, 2022) (granting motion to strike second amended complaint filed without leave of court), *report and recommendation adopted*, No. 1:21-

CV-517-RP, 2022 WL 17812844 (W.D. Tex. Feb. 22, 2022).

13. Because the Second Amended Complaint was improperly filed, it should not moot the Amended Motions to Dismiss currently before the Court. Out of an abundance of caution, pursuant to Fed. R. Civ. P. 12(g)(2), RCA and Fr. Tran readopt, reassert, and reallege their Amended Motions against the purported “Second Amended Complaint” as if restated verbatim.

II. CONCLUSION

For the foregoing reasons, Defendants request the Court strike Plaintiffs’ purported “Second Amended Complaint” as procedurally improper.

Respectfully submitted this 20th day of July 2023,

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CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing document has been served upon all counsel of record via the ECF Filing System pursuant to the Federal Rules of Civil Procedure on July 20, 2023.

/s/ Bradley E. Chambers

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